

FILED
UNITED STATES DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF NEW MEXICO

JUN 25 2003

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

v.

Ramon Aragon, *et al.*,
Defendants.

69cv07941 JEC-ACE

Robert M. March
CLERK

RIO CHAMA STREAM SYSTEM

Section 1: Chama Mainstream

**MOTION REQUESTING AN ORDER SETTING FORTH PRIORITY DATES
FOR PURPOSES OF PRIORITY ADMINISTRATION**

COMES NOW the plaintiff, State of New Mexico, *ex rel.* State Engineer, by and through his attorneys, and moves the Court to issue its order setting forth priority dates for acequias below Abiquiu Dam for purposes of priority administration pending the completion of the Special Master's report on the redetermination of priority dates for these acequias. In support of this motion, Plaintiff states the following:

1. The Court issued its Amended Order on the Adjudication of Water Right Priorities (Docket No. 3496) on July 8, 1994. That Order stated that a Notice and Order to Show Cause setting forth the priority dates as determined in a report submitted by court-appointed expert witness, John O. Baxter should be served by the State on each defendant acequia or community ditch.

2. On October 21, 1994, the Court issued its Order Amending July 8, 1994 Order Re Adjudication of Water Rights Priorities (Docket No. 3956), granting certain extensions of time for the State to serve its notices to show cause pending the Court's approval of notice procedures for the same. The Court issued its Second Order Amending July 8, 1994 Order Re Adjudication of Water Rights

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Priorities (Docket No. 3971) on December 5, 1994. That Order approved the forms of the State's Notices and Orders to Show Cause, and the State offered amended priority dates to the acequias or community ditches within the mainstream of the Rio Chama stream system.

3. The Acequia de Chamita, Acequia de los Salazares, Acequia de Hernandez, and Acequia de Jose V. Martinez, filed objections to the amended priority dates as offered by the State Engineer; the State received no other objections. In their Joint Motion to Adopt Stipulation (Docket No. 4077), filed October 3, 1995, counsel for the State Engineer and for the acequias agreed and requested an order by the Court adjudicating the priority date of the Acequia de Jose V. Martinez as being 1735, subject to *inter se* proceedings. The court-appointed expert, John Baxter, and the acequias' expert, Dr. Stanley Hordes, also stipulated to certain facts relevant to the contested priority dates of the remaining three acequias (Acequia de Chamita, Acequia de los Salazares, and Acequia de Hernandez), which was attached as Exhibit "A" to that motion. The Court entered its order adopting these stipulations (Docket No. 4380) on November 17, 1995.

4. In its Pretrial Order on Mainstream Section Priority dates (Docket No. 5347), filed March 25, 1996, the Court stated: "Through the last months of 1994 and early months of 1995 the State served the Notices and Orders through regular mail and publication on all community acequia water rights owners known to the State in the Rio Chama reach between and including Abiquiu and Chamita. The State also served the acequia associations in that area." That Order set trial on the contested priority dates of Acequia de Chamita, Acequia de los Salazares, and Acequia de Hernandez ("acequias") for June 26, 1996. Following that hearing, the acequias filed requested findings of fact and conclusions of law and a memorandum of law in support thereof (Docket Nos. 5626 and 5627) on April 2, 1997. The State filed such documents April 3, 1997 (Docket Nos. 5628 and 5629). The Special Master has not yet

filed a report in connection with the hearing held in June of 1996, and there has been no final determination of the priority dates for the three remaining acequias.

5. Pending the Special Master's report on the remaining issues, for purposes of priority administration the State requests the Court to issue an order adjudicating the undisputed priority dates for the acequias and community ditches listed below as follows:

Acequia de Abeyta y Trujillo	1735
Acequia del Pueblo de Abiquiu	1734
Accquia del Barranco	1735
Acequia de Karl Bode	1734
Accquia del Rio de Chama	1724
Acequia de Chili y la Cuchilla	1715
Acequia de los Duranes	1724
Acequia de los Gonzales	1734
Accquia de Maestas	1734
Accquia de Manzanres y Montoya	1724
Accquia Mariano	1734
Accquia de los Martinez	1724
Accquia de Jose V. Martinez	1735
Accquia Valentin Martinez	1734
Accquia de la Puente	1734
Acequia de Quintana	1734
Accquia de Suazo	1735
Accquia de los Ranchitos	1735
Accquia de la Tierra Azul	1734
Accquia de Jose Ferran	1734

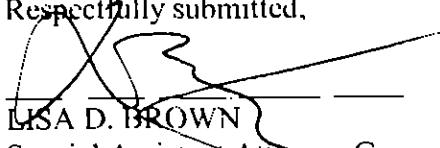
6. At the June 26, 1996 hearing on contested priority dates for the Acequia de Chamita, Acequia de los Salazares, and Accquia de Hernandez, the State requested a priority date for the three acequias of 1714. *See* State's Requested Findings of Fact and Conclusions of Law filed April 3, 1997 (Docket No. 5628). The acequias requested findings of a priority date of 1600 for the Acequia de Chamita and 1600 or at least 1680 for the Hernandez and Salazar acequias. *See* Acequias Requested Findings of Fact and Conclusions of Law filed April 2, 1997 (Docket No. 5626).

Pending the completion of the Special Master's report on contested priorities, and a final determination of those priority dates by the Court, the State and acequias request permission to treat these three acequias as having equal priority senior to all other Chama mainstream acequias for purposes of priority administration below Abiquiu Dam.

7. Counsel for the community ditches, including Acequia de Chamita, Acequia de los Salazares, and Acequia de Hernandez, concurs in this motion.

WHEREFORE, the plaintiff State of New Mexico requests the Court to issue an order adjudicating the priority dates for the acequias named herein as set forth in paragraph 5 above, and allowing the State to treat Acequia de Chamita, Acequia de los Salazares, and Acequia de Hernandez as having equal priority senior to all other acequias on the mainstream Chama for purposes of priority administration below Abiquiu Dam pending completion of the Special Master's report and a final determination as to the priority dates for these acequias.

Respectfully submitted,

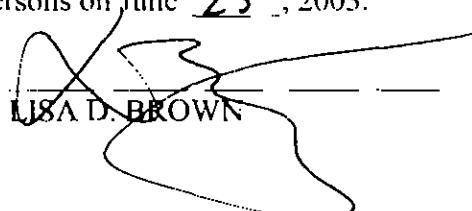


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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Motion Requesting an Order setting forth Priority Dates For Purposes of Priority Administration was mailed to the following persons on June 25, 2003.


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